

DEC 21 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JESUS MARTINEZ GONZALEZ; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-72948

Agency Nos. A95-198-856

A95-198-857

A95-198-858

A95-198-859

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 17, 2007**

Before: GOODWIN, REINHARDT and W. FLETCHER, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order adopting and affirming an Immigration Judge's order denying petitioners'
applications for cancellation of removal

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

We have reviewed the respondent's unopposed motion to dismiss for lack of jurisdiction. The motion is construed as a motion to dismiss in part and a motion for summary affirmance in part.

We have reviewed the petition for review and we conclude that petitioners Jesus Martinez Gonzales (A95-198-856) and Maria de Jesus Torres (A95-198-857) have failed to raise a colorable constitutional or legal claim to invoke our jurisdiction over this petition for review. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926 (9th Cir. 2005); *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001). Accordingly, the motion to dismiss this petition for review for lack of jurisdiction as to petitioners Jesus Martinez Gonzales and Maria de Jesus Torres is granted. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002).

A review of the administrative record demonstrates that petitioners Maria E. Martinez (A95-198-858) and Jesus Martinez Torres (A95-198-859) presented no evidence that they have a qualifying relative as defined in 8 U.S.C. § 1229b(b)(1)(D). *See Molina-Estrada v. INS*, 293 F.3d 1089, 1093-94 (9th Cir. 2002). The agency therefore correctly concluded that, as a matter of law, petitioners were ineligible for cancellation of removal. Accordingly, respondent's

07-72948

motion for summary disposition with respect to petitioners Maria E. Martinez (A95-198-858) and Jesus Martinez Torres (A95-198-859) is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.